Ethical Decision Making

2014 Ethics Training

Training Objectives

To better equip DoD personnel to:

1. Evaluate ethical dilemmas
2. Make ethical decisions relying on both ethics rules and fundamental ethical values

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Training Objectives

- We will highlight several key ethics rules using recent Federal convictions and substantiated IG investigations of unethical conduct by military and civilian employees.

- These cases remind us of our obligation to comply with ethics laws and regulations and how to seek legal advice when we need it.

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Training Objectives

- We will also focus on how to navigate in **nuanced or gray areas:**

  1. When the ethics rules ***don't provide a clear answer*** or are silent on the propriety of a proposed action

  2. The rules require ***subjective judgment*** to determine the propriety of the proposed activity

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Components of Ethical Decision Making

1. Do the **ethics rules** permit me to take a proposed action/May I proceed? (The lawyers generally make these calls)

2. If yes, should I proceed?

- Query to Self: What are the benefits to DoD if I take the proposed action *and what are the RISKS?* (Generally not a legal question)

Glen Defense Marine Bribery Scandal

- **December 2013: NCIS supervisory SA John Beliveau (2010 NCIS Agent of the Year) pled guilty to sharing with Glen Defense Marine Asia Ltd. (GDMA) confidential information about ongoing criminal probes into the contractor's billing practices in exchange for prostitutes, cash, and luxury travel— a violation of the criminal bribery statute.**

- **Beliveau regularly searched confidential NCIS databases over the course of years to help the GDMA CEO avoid multiple criminal investigations by providing copies of these reports plus advice and counsel on how to respond to, stall and thwart the NCIS probes.**

- **Beliveau deliberately leaked the names of cooperating witnesses, reports of witness interviews, and plans for future investigative steps, costing the Navy millions of dollars. Awaiting sentencing.**

Insert

- **Insert here a summary of recent cases that will be of most interest to your personnel**

Ethics Rules Implicated

- In addition to violations of the criminal conflict of interest laws, these cases highlight a variety of violations of the regulatory Federal Standards of Conduct:

  - ✓ Use of public office for private gain
  - ✓ Disclosure of non-public information
  - ✓ Acceptance of gifts from prohibited sources
  - ✓ Giving preferential treatment/favoritism
  - ✓ Loss of impartiality in performance of duties

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Cases Reflect Disregard of Core Ethical Values

Beyond violations of law and regulations, these cases:

- **Demonstrate a disregard for the fundamental values of the Department of Defense. . . .**
  - **integrity**
  - **respect**
  - **accountability**
  - **selfless service**
  - **personal courage and**
  - **stewardship of the taxpayer's $$**

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What are ethical values?

- Ethics are **standards** by which one should act based on **values**
  - ✓Values are core beliefs that motivate **attitudes** and **actions**
  - ✓Ethical values relate to what is right and wrong
  - ✓Ethical values demand that our actions not only comply with law **but promote public confidence**

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Service Core Values

Army

- ✓ Loyalty
- ✓ Duty
- ✓ Respect
- ✓ Selfless Service
- ✓ Honor
- ✓ Integrity
- ✓ Personal Courage

Navy

- ✓ Honor
- ✓ Courage
- ✓ Commitment

Marines

- ✓ Honor
- ✓ Courage
- ✓ Commitment

Air Force

- ✓ Integrity First
- ✓ Service before Self
- ✓ Excellence in all we do

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Ethical Principles of Federal Service

- **Basic obligations of public service highlighted in the Federal Standards of Conduct, e.g.:**
  - **Remain impartial in all official business and dealings**
  - **Avoid using public office for private gain**
  - **Protect and conserve Federal property**
  - **Avoid holding financial interests that conflict with the conscientious performance of duty**
  - **Do not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest**

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DoD Core Values

- **Chapter 12, Section 4 of the Joint Ethics Regulation, e.g.:**
  - **Honesty**
  - **Integrity**
  - **Loyalty**
  - **Accountability**
  - **Respect**
  - **Fairness**
  - **Caring**

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Core Values

- Core values help us navigate the ***"gray areas"*** when the **law is either silent** or requires **subjective judgment** to determine the propriety of the proposed activity

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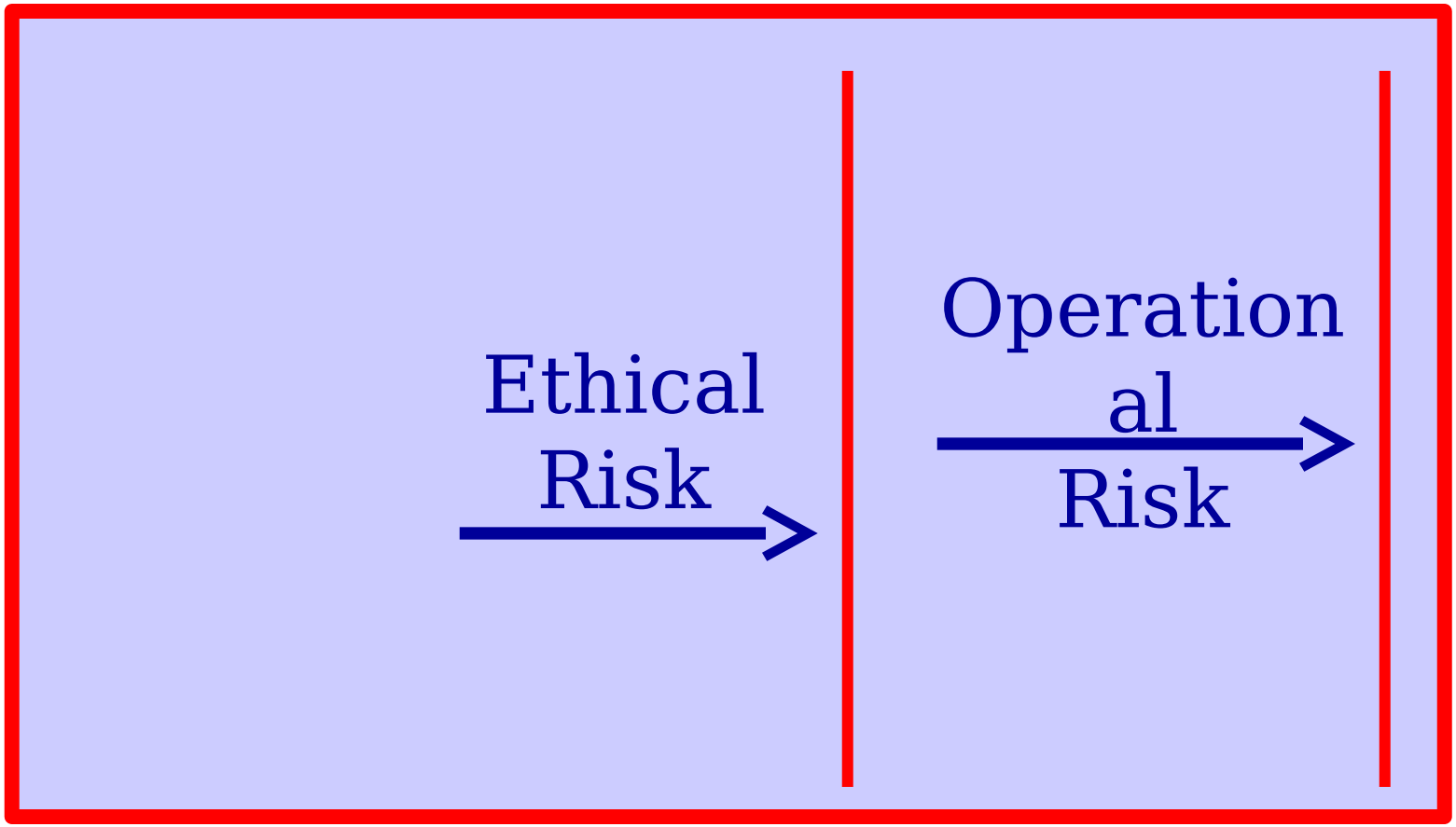
Managing Operational & Ethical Risks



- **<u>Boundaries</u>** constitute the legal rules.

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Could vs. Should

- When making an ethical decision ask two questions:
  1. Do the ethics rules permit me to take a proposed action (*may* I)?

  2. If so, *should* I take the action? Would my action create an appearance that I am less than fair and impartial or cause a reasonable person to question the integrity of DoD business processes?

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Legal, but is it Prudent? Hypothetical

A senior Pentagon official asks if he can travel at Govt. expense from DC to attend a 30 minute award ceremony during a charitable organization's gala in which a subordinate in the official's organization will be honored for valor. The Gala will be in Las Vegas.

- *May* he attend at Government expense?
- *Should* he attend?

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Legal, but is it Prudent? Hypothetical

A retirement eligible senior policymaker informs the Under Secretary of Defense for Personnel and Readiness that he intends to seek employment in the private sector. The Under Secretary asks him to stay with the Department until Congress passes the new TRICARE benefits plan since this is the senior policymaker's area of technical expertise. The policymaker agrees to stay but continues in his job search. While still employed in OSD, he decides to attend an official DoD training forum out of town of which there are several to choose from where he also intends to meet with a prospective private sector employer for an informal interview.

Should he permit the Government to pay for his travel

Legal, but is it Prudent? Hypothetical

You are an OSD employee who works in the Office of the Assistant Secretary for Legislative Affairs. Your neighbor of 17 years, who works for a K Street lobbying firm, offers you a ticket to join him for a John Mayer concert at the Verizon Center. You are not sure if the ticket came from your friend's lobbying firm or from him personally. The face value of the ticket is $175.

- *May* you accept the ticket?
- *Should* you accept the ticket**?**

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Legal, but is it Prudent? Hypothetical

A senior Defense official who has a legitimate need to meet with a major Defense contractor agrees to meet over lunch and allows the contractor to pick up the tab for the meal of $19.99.

- *May* she accept this free lunch under the Federal-wide gift rules?
- *Should* she accept this gift of lunch?

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Legal, but is it Prudent? Hypothetical

You are invited to attend an open house hosted by a major Defense contractor from 12-2:00 next Thursday. You ask around and learn that all of your office colleagues at the GS-15 level and above, including your ASD boss, have been invited as well. You talk to a few folks in your office and find out that this company hosts this event every year and serves an incredible spread of food and spirits. Attendees include Government employees, industry representatives, and congressional staffers. Everyone in your office is talking about going and you decide that you'd like to attend too. You ask your ethics office if the rules permit you to accept the gift of free attendance under the "widely attended gathering" exception to the Federal Standards of Conduct gift prohibition.

If the lawyers say yes, and your supervisor determines there is an agency interest in your attending, then what factors and possible "appearance" concerns will you evaluate before you decide

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Legal, but is it Prudent? Hypothetical

Insert a customized hypothetical for your audience to discuss.

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How leaders maintain a strong ethical culture

- Set ethical expectations using **fundamental ethical values** (e.g., **Integrity**, **Personal Courage**, **Stewardship of Taxpayers' $$**) as the foundation.
- **Lead by example** (tone set at the top) and hold self and others accountable.
- **Remove fear of retaliation** from organization climate/promote candor to the leadership.
- Foster environment where subordinates **go beyond asking "Is this legal?" to "Is this prudent?" By doing this,**

The Character that Takes Command

"The character that takes command in **moments of crucial choices** has **already been determined**. It has been determined by a thousand other choices made earlier **in seemingly unimportant** moments. It has been **determined** by all the **little choices** of years past — by all those times when the voice of conscience was at war with the **voice** of temptation — whispering the lie that it really doesn't matter. It has been determined by all the day-to-day decisions made when life seemed easy and crises seemed far away — the **decisions** that, piece by piece, bit by bit, developed habits of discipline – or of laziness, habits of self-sacrifice — or of self-indulgence, **habits of duty and honor and integrity** — or dishonor and shame."

— Ronald Reagan, The Citadel, May 15, 199

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When All Else Fails…

THERE WERE ELEVEN WAYS TO INTERPRET THE VAGUE ASSIGN-MENT YOU GAVE ME BY VOICEMAIL.
GIVEN THE RISKS OF CHOOSING WRONG, AND MY ENGINEERING OATH TO DO NO HARM, IT WAS MY ETHICAL DUTY TO DO NOTHING.
YOU COULD HAVE ASKED FOR CLARIFI-CATION.
SOUNDS RISKY.
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ASK!

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